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| 10/724,864      | 12/02/2003  | Kathleen K. Martin   | 036762-0103         | 1602             |

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EXAMINER

WOLLSCHLAGER, JEFFREY MICHAEL

ART UNIT PAPER NUMBER

1732

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/724,864

Applicant(s)

MARTIN, KATHLEEN K.

Examiner

Jeff Wollschlager

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 51-64, 73 and 74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-64, 73 and 74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group II, claims 51-64 in the reply filed on August 28, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-50 and 65-72 are cancelled. Original claims 51-64 and new claims 73 and 74 are pending.

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it has not been dated.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51-63, 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reddy (U.S. Patent 4,834,113) in view of Morton (U.S. 2,097,528) or Shlenker et al. (U.S. 5,338,565) or Raiche (U.S. 2,266,263) or Sidnel (U.S. 2,838,047).

Regarding claim 51, Reddy teaches a method of producing a prophylactic device comprising: providing a form for a casting including a portion configured to produce a panty and a portion configured to produce a pouch, wherein the panty includes a crotch portion and wherein the pouch is disposed on the crotch portion of the panty (Figure 12; col. 9, lines 38-49; Figure 18). Reddy further teaches producing the form by a conventional double dip process, but do not provide details outlining the double dip process. However, Morton (page 1, col. 1, lines 1-col. 2, lines 45; page 2, col. 1, lines 17-63), Shlenker (Abstract; col. 1, lines 35-62; col. 2, lines 7-61), Raiche (page 1, col. 1, lines 5-49; page 1, col. 2, lines 22-40; page 2, col. 1, lines 23-31) and Sidnel (col. 1, lines 15-29; col. 1, line 62-col. 2, line 40; col. 3, lines 57-col. 4, line 2) individually and analogously disclose double dip processes for the production of latex articles.

Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to combine the double dip processes disclosed by Morton, Shlenker, Raiche, or Sidnel to execute the double dip process generically disclosed by Reddy for the purpose, as disclosed by Morton, of controlling the thickness of distinct sections of the product (page 1, col. 1, lines 1-17), or for the purpose, as disclosed by Shlenker, of introducing a biocide into the product (Abstract), or for the purpose, as disclosed by Sidnell, of producing a water proof product of desired final thickness (col. 4, lines 1-2).

As to claims 52-55, Morton, Shlenker, Raiche and Sidnel disclose drying steps after the recited operative steps (see citations above). Further, the prophylactic device

is dry at the end of the process when it is removed from the form (Reddy: col. 9, lines 44-48). This is also after the recited operative steps.

As to claims 56 and 63, Shlenker et al., for example, disclose subjecting the form to a leaching process in a warm water rinse or bath (col. 2, lines 38-40).

As to claim 57, Reddy discloses curing the rubber (col. 9, lines 44-48).

As to claims 58 and 59, applying powder on an exterior and interior portion of the casting is well known in the art for the purpose of facilitating removal of the completed rubber product from the mold and to facilitate donning of the completed product.

As to claims 60 and 61, the latex and coagulants disclosed in the references are liquids (see citations above in the rejection of claim 51).

As to claim 62, the coagulants necessarily promote adherence of the latex.

As to claims 73 and 74, Morton discloses utilizing a heavy wall first coagulant and a light wall second coagulant (page 2, col. 1, lines 16-40).

Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reddy (U.S. Patent 4,834,113) in view of Morton (U.S. 2,097,528) or Shlenker et al. (U.S. 5,338,565) or Raiche (U.S. 2,266,263) or Sidnel (U.S. 2,838,047) as applied to claims 51-63, 73 and 74 above, and further in view of Gammeter (U.S. Patent 1,951,402) or Shaller (U.S. 6,440,498) or Ambrose (U.S. 2,749,549).

As to claim 64, Reddy in view of Morton, or Shlenker or Raiche or Sidnel teach the method of claim 51 as discussed above. Further, Raiche discloses raised protrusions on the rubber article formed by suitable designs or marks placed into or on

Art Unit: 1732

the form (page 1, col. 1, lines 44-49 and col. 2, lines 33-49). Additionally, Gammeter (page 1, lines 14-19 and 74-84), Shaller (col. 10, lines 28-39), and Ambrose (col. 1, lines 64-71; col. 2, lines 17-26), analogously and individually teach a form including a plurality of depressions/grooves/recesses configured to form protrusions on the top/cuff/hip/body portion of the product.

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to provide the form with a plurality of depressions configured to the panty casting/top/hip/body portion in order to produce a product with raised protrusions, for the purpose as taught by Ambrose, of reinforcing the rubber article in the hip section (col. 1, lines 64-71; col. 2, lines 17-26) or as disclosed by Raiche for producing an ornamented surface (page 1, col. 1, lines 45-50).

### **Conclusion**

All claims are rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nile et al. (U.S. Patent 6,075,081) show that employing powders on the inside and outside surface of a dipped product/form is conventional in the art (col. 1, lines 16-45).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Wollschlager whose telephone number is 571-272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.

Art Unit: 1732

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JW

Jeff Wollschlager  
Examiner  
Art Unit 1732

November 14, 2006

  
CHRISTINA JOHNSON  
SUPERVISORY PATENT EXAMINER

11/16/06